

## REMARKS

Claims 1, 2 and 5-10 stand rejected under 35 U.S.C. §103 as being unpatentable over United States Design patent No. D507, 233 to Daisho et al. in view of JP01-178006, United States Patent No. 4,754,856 to Grass, United States Patent No. 6,450,223 to Landers et al and United States Patent No. 6,571,844 to Ochi et al. Applicant respectfully traverses this rejection.

For the reasons set forth below, Applicant respectfully submits that the Daisho et al. reference is disqualified as prior art under the common ownership prior art exclusion of 35 U.S.C. §103(c). As discussed in MPEP § 706.02(1)(1), for applications such as this one which are pending on or after December 10, 2004, subject matter which was previously considered as prior art under former 35 U.S.C. §103 via 35 U.S.C. § 102(e) only is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention were, at the time that the invention was made, owned by the same person or entity or subject to an assignment to the same person or entity.

In the instant case, Applicant respectfully submit that both the present application and the Daisho et al. design patent are now, and previously were at the time that the claimed invention was made, commonly owned by the same entity -- The Yokohama Rubber Company, Ltd. (hereinafter "Yokohama Rubber") The Daisho et al. design patent, which can be traced back to parent application Serial No. 29/195794, has been assigned to Yokohama Rubber since at least April 2, 2004, as evidenced in the Assignment Records on Reel 015179, Frame 0435. The present application, Serial No. 10/560,783 (which is a §371

of PCT/JP04/09964, filed July 13, 2004) is also assigned to Yokohama Rubber, and has been assigned to Yokohama Rubber since at least December 14, 2005, as evidenced in the Assignment Records on Reel 017375 and Frame 0435.

Accordingly, as a statement and evidence establishing common ownership has been provided, Applicants respectfully request that the Daisho et al. reference be withdrawn as valid §103 prior art via §102(e). *See* MPEP §706.02(1)(1) - §706.02(1)(2). Further, Applicants also respectfully submit that the Daisho et al. referenced does not qualify as prior art under any of the other sub-section of §102 because, *inter alia*, the effective U.S. filing date of the present §371 application is July 13, 2004, even without a certified translation of the Japanese priority document, which date is before the July 12, 2005 publication date of the Daisho et al. reference. Since the Daisho et al. reference should be withdrawn as prior art, Applicants respectfully submit that the §103 rejection of Claims 1, 2 and 5-10 under Daisho et al. in view of additional references should be withdrawn.

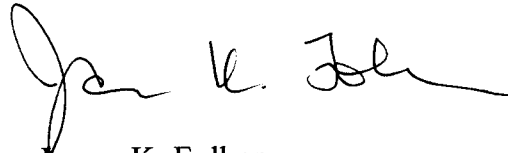
For all of the above reasons, Applicants request reconsideration and allowance of the claimed invention. Should the Examiner be of the opinion that a telephone conference would aid in the prosecution of the application, or that outstanding issues exist, the Examiner is invited to contact the undersigned.

If a Petition under 37 C.F.R. §1.136(a) for an extension of time for response is required to make the attached response timely, it is hereby petitioned under 37 C.F.R. §1.136(a) for an extension of time for response in the above-identified application for the period required to make the attached response timely. The Commissioner is hereby authorized to charge fees which may be required to this application under 37 C.F.R. §§1.16-1.17, or credit any overpayment, to Deposit Account No. 07-2069.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By



James K. Folker

Registration No. 37,538

December 16, 2008

Suite 2500  
300 South Wacker Drive  
Chicago, Illinois 60606  
(312) 360-0080

Customer No. 24978

P:\DOCS\4386\77715\DT1255.DOC